

Court of Appeals, State of Michigan

ORDER

State Auto Mutual Ins Co v Geoffrey N Fieger

Docket No. 254461

LC No. 03-319297-CZ

E. Thomas Fitzgerald
Presiding Judge

Jessica R. Cooper

Kirsten Frank Kelly
Judges

This matter having come before the Court by brief and on oral argument, we find the record insufficient for purposes of appellate relief. The Court orders that this case is REMANDED, as the trial court failed to make findings of fact and conclusions of law that are capable of review.

On remand, the trial court is directed to rule on the following issues: (1) whether plaintiff has waived its claim against defendants due to its failure to appeal and/or contest the January 6, 1999, order of distribution in *Rogers v City of Detroit, et al*, Wayne County Circuit Court, Docket No. 90-016936; (2) if the claim has not been waived, whether the current lawsuit falls within the directive of *State Automobile Mutual Insurance Co v Geoffrey Fieger*, unpublished opinion per curiam of the Court of Appeals, issued February 14, 2003 (Docket No. 231590); (3) if, and on what basis the defendants were entitled to deduct a portion of plaintiff's lien recovery for attorney fees and costs incurred in obtaining the recovery; and (4) on what basis plaintiff is entitled to interest, if any. These rulings must contain specific findings of fact and conclusions of law to support its findings.

We do not retain jurisdiction.

Judge Kelly would direct the trial court to hear and decide the matter within 56 days of the Clerk's certification of this order, and would also retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 08 2005

Date

Sandra Schultz Mengel
Chief Clerk